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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/577,292	05/23/2000	Alireza Abaye	11470BAUS01U	3517
33000	7590	01/17/2007	EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action Before the Filing of an Appeal Brief	Application No. 09/577,292	Applicant(s) ABAYE ET AL.	
	Examiner Anh-Vu H. Ly	Art Unit 2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ They raise the issue of new matter (see NOTE below);
 - (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

- 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
- 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
- 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
- 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

- 8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
- 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
- 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

- 11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
- 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
- 13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant states in page 17 that requesting the Office to withdraw the finality of the outstanding office action due to claim objections, for the first time, raised. Examiner respectfully disagrees. The Office Action can be made final even though it includes the claim objections as raised for the first time, but not claim rejections, as clearly stated in the MPEP 706. Applicant argues in page 20 that in contrast, Applicant additionally teaches that it is important to identify which network resources, e.g., gateways, routers, paths, links, terminals, etc... will be utilized in the path between the origination terminal and destination terminal. With this information, the Applicant is able to make the call admission decision for anticipated path of the call. Examiner respectfully disagrees. After carefully reviewing the independent claims, all independent claims do not recite that the network resources are defined as routers, gateways, links, terminals, etc... Therefore, applicant's argument is not directed to the claimed invention. Applicant further argues in page 20 that Key fails to disclose how the "load" is measured. Examiner respectfully disagrees. Independent claims do not recite that the network resources are measured or monitored in any particular way therefore, applicant's argument is not directed to the claimed invention. Applicant further argues in page 20 that there is no description or indication that Key's measured load is determined in response to a throughput measurement request or Key's network manager receives, in response to the trace, information identifying a network resource in the path between the origination and destination terminals. Examiner respectfully disagrees. Key discloses that node 5 requests the network manager 9 to allow connection to node 4. The network manager monitors the load on a transmission path between the transmitting and receiving nodes, in this case path 6 (col. 3, line 61 - col. 4, line 10). Herein, a packet must traverse the path for determining the utilized capacity and the load of the path is monitored according to the request for a connection to traverse between node 5 and node 4. Therefore the claimed invention is clearly disclosed by Key.


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SUPERVISORY PATENT EXAMINER
1/16/07